

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1360 be amended to read as follows:

- 1 Replace the effective date in SECTION 4 with "[EFFECTIVE JULY
- 2 1, 2008]".
- 3 Page 3, line 13, strike "Before" and insert "**Except as provided in**
- 4 **section 3.5 of this chapter, in addition to**".
- 5 Page 4, line 3, delete ":".
- 6 Page 4, line 4, delete "(1)".
- 7 Page 4, run in lines 3 through 4.
- 8 Page 4, line 7, delete "; and" and insert ".".
- 9 Page 4, delete lines 8 through 11.
- 10 Page 4, run in lines 7 through 12.
- 11 Page 4, between lines 36 and 37, begin a new paragraph and insert:
- 12 "SECTION 4. IC 6-1.1-5.5-3.5 IS ADDED TO THE INDIANA
- 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 14 [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section applies to a**
- 15 **conveyance that:**
- 16 **(1) is a single family residential:**
- 17 **(A) first lien purchase money mortgage transaction; or**
- 18 **(B) refinancing transaction; and**
- 19 **(2) is closed after December 31, 2009.**
- 20 **(b) Not later than September 1, 2009, the department of local**
- 21 **government finance shall establish and maintain an electronic**
- 22 **system for the collection and storage of the sales disclosure form**
- 23 **data set forth in section 5(a) of this chapter with respect to a**
- 24 **conveyance to which this section applies.**

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to:

(A) input the sales disclosure form data set forth in section 5(a) of this chapter with respect to the transaction; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

(d) Subject to subsection (e), the department shall make the information stored in the data base described in subsection (c)(2)(B) accessible to:

(1) county auditors;

(2) county assessors;

(3) township assessors;

(4) the legislative services agency; and

(5) the department;

for the purposes authorized by section 3(c) and 3(d) of this chapter.

(e) If the sales disclosure form data submitted by a closing agent under subsection (c)(2)(B) includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential."

Page 4, line 42, delete "following:" and insert "following".

Page 4, line 42, reset in roman "information:".

Page 5, delete lines 29 through 42.

Page 6, delete lines 1 through 22.

Page 6, line 23, reset in roman "(16)".

Page 6, line 23, delete "(21)".

Page 6, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 6. IC 6-1.1-5.5-6, AS AMENDED BY P.L.154-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to subsection (c)**, the county auditor may not **refuse to** accept a conveyance document ~~if~~ **solely because:**

(1) the sales disclosure form signed by all the parties and attested as required under section 9 of this chapter is not included with the document; ~~or~~

(2) the sales disclosure form does not contain the information described in section 5(a) of this chapter; **or**

(3) in the case of a conveyance to which section 3.5 of this chapter applies:

(A) the closing agent fails to submit an electronic form in accordance with section 3.5(c)(2)(B) of this chapter; **or**

(B) the electronic form submitted by the closing agent under section 3.5(c)(2)(B) of this chapter is incomplete **or** determined by any official or agency described in section

3.5(d) of this chapter to be inaccurate.

(b) **Subject to subsection (c), the county recorder shall not may not refuse to record a conveyance document without evidence that the parties have filed a completed sales disclosure form with the county auditor, solely on the basis of any of the reasons set forth in subsection (a).**

(c) **Notwithstanding subsections (a) and (b), if any of the circumstances described in subsection (a)(1) through (a)(3) apply:**

(1) a party to the conveyance who is required to file a sales disclosure form under section 3 of this chapter:

(A) is not relieved of the party's duty to file or correct the sales disclosure form required by this chapter; and

(B) is subject to the penalties set forth in section 12 of this chapter; and

(2) a closing agent who is required to submit an electronic sales disclosure form under section 3.5(c)(2)(B) of the chapter:

(A) is not relieved of the closing agent's duty to submit or correct the electronic sales disclosure form required by section 3.5(c)(2)(B) this chapter; and

(B) is subject to the penalties set forth in section 12(f) of this chapter.

SECTION 7. IC 6-1.1-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) Except as provided in subsection (b),** a person who signs a sales disclosure form shall attest in writing and under penalties of perjury that to the best of the person's knowledge and belief the information contained in the sales disclosure form is true and correct.

(b) An electronic sales disclosure form that is submitted in accordance with section 3.5(c)(2)(B) of this chapter is subject to any verification requirements that the department may prescribe by rule adopted under IC 4-22-2.

SECTION 8. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) **Except as provided in subsection (f),** a party to a conveyance who:

(1) is required to file a sales disclosure form under this chapter; and

(2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

(1) one hundred dollars (\$100); or

(2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) Except as provided in subsection (f), the township assessor in a county containing a consolidated city, or the county assessor in any other county, shall:

- (1) determine the penalty imposed under this section;
- (2) assess the penalty to the party to a conveyance; and
- (3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) **Except as provided in subsection (f)**, the county auditor shall:

- (1) collect the penalty imposed under this section;
- (2) deposit penalty collections as required under section 4 of this chapter; and
- (3) notify the county prosecuting attorney of delinquent payments.

(e) **Except as provided in subsection (f)**, the county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

(f) **A closing agent who:**

- (1) **is required to submit an electronic sales disclosure form under section 3.5(c)(2)(B) of this chapter; and**
- (2) **fails to submit the electronic sales disclosure form at the time and in the manner prescribed by the department of local government finance;**

is subject to the penalty set forth in IC 6-1.1-12-43(h)."

Page 7, line 40, delete "The" and insert "**Except as provided in subsection (d)**, the".

Page 8, line 4, delete "For use in transactions involving a first lien purchase money" and insert "**As used in this subsection, "transaction" has the meaning set forth in section 43(a)(4) of this chapter. Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system that automatically applies the deduction provided by section 1 of this chapter to a person entitled to the deduction provided by section 1 of this chapter. The system established by the department under this subsection must include a form that, with respect to a transaction that is closed after December 31, 2009:**

- (1) **is uniformly accessible in an electronic format to the closing agent (as defined in section 43(a)(2) of this chapter) in the transaction that is the basis for the person's eligibility for the deduction provided by section 1 of this chapter; and**
- (2) **allows the closing agent to:**

(A) **input the information concerning the transaction that is the basis for the person's eligibility for the deduction provided by section 1 of this chapter; and**

(B) **submit the form electronically to a data base maintained by the department of local government finance.**

The department shall make the data base described in subdivision (2)(B) accessible to the county auditor in each county in Indiana. If the form submitted by a closing agent under subdivision (2)(B) is complete, the county auditor in the county in which the real

property is located must accept the form and apply the deduction in accordance with section 17.8(c) of this chapter. The county auditor may not require the closing agent, the person entitled to the deduction, or any other person to provide any other information or form of identification for the person entitled to the deduction under section 1 of chapter to receive the deduction. If the form submitted by a closing agent under subdivision (2)(B) includes the telephone number or Social Security number of any individual, the telephone number or Social Security number is confidential."

Page 8, delete lines 5 through 15.

Page 8, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 10. IC 6-1.1-12-42.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 42.5. (a) This section applies to a transaction that:**

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any;

involved in the transaction.

(4) The name and certificate number (under IC 27-7-3) of each title insurance company involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agent involved in the transaction.

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(B) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(7) The name of the mortgagee and, if the mortgagee is required to be licensed under IC 24-4.5-3-502, the license

number of the mortgagee.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in section 43(a)(2) of this chapter) in the transaction; and

(2) allows the closing agent to:

(A) input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction, to the extent determinable; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

(d) Subject to subsection (e), the department shall make the information stored in the data base described in subsection (c)(2)(B) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(e) The department, a closing agent who submits under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(B);

except to the extent required or authorized by state or federal law."

Page 9, line 20, delete "2008:" and insert "**2008, and before January 1, 2010:**".

Page 9, delete lines 21 through 24.

Page 9, line 25, delete "(2)" and insert "(1)".

Page 9, line 27, delete "the sales disclosure form prescribed by the" and insert "**if the transaction is a first lien purchase money mortgage transaction, the sales disclosure form prescribed by the department under IC 6-1.1-5.5-5, the form prescribed by the department under IC 6-1.1-20.9-3 to allow a person to claim the credit provided by IC 6-1.1-20.9-2, and the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter; or**

(ii) if the transaction is a refinancing transaction, the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter."

Page 9, delete lines 28 through 34.

- 1 Page 9, line 35, delete "subject to subsection (f),".
- 2 Page 9, line 36, delete "form" and insert "**forms**".
- 3 Page 9, line 37, delete "subject to subsection (f),".
- 4 Page 9, line 37, delete "form" and insert "**forms**".
- 5 Page 9, line 39, delete "(3)" and insert "**(2)**".
- 6 Page 9, line 39, delete "closing:" and insert "**closing**".
- 7 Page 9, line 40, delete "(A)".
- 8 Page 9, run in lines 39 through 40.
- 9 Page 9, line 41, after "this" insert "**chapter by providing the**
- 10 **customer with the form prescribed by the department under**
- 11 **subsection (b).**".
- 12 Page 9, delete line 42.
- 13 Page 10, delete lines 1 through 6.
- 14 Page 10, line 8, delete "2008." and insert "**2008, and before**
- 15 **January 1, 2010.**".
- 16 Page 10, line 8, delete "a form" and insert "**the forms**".
- 17 Page 10, line 9, delete "(d)(2)(B)" and insert "**(d)(1)(B)**".
- 18 Page 10, line 11, delete "file the signed sales" and insert "**file:**
- 19 **(A) the signed sales disclosure form with the appropriate**
- 20 **county assessor and county auditor in accordance with**
- 21 **IC 6-1.1-5-3;**
- 22 **(B) the signed mortgage deduction form in accordance**
- 23 **with section 2(a) of the chapter; and**
- 24 **(C) the signed homestead credit form in accordance with**
- 25 **IC 6-1.1-20.9-3.**".
- 26 Page 10, delete lines 12 through 13.
- 27 Page 10, between lines 16 and 17, begin a new paragraph and insert:
- 28 "**(f) This subsection applies to a transaction that is closed after**
- 29 **December 31, 2009. The closing agent shall do the following:**
- 30 **(1) At the time of the closing, inform the customer of the**
- 31 **deductions available under sections 9, 11, 13, 14, 16, 17.4, 26,**
- 32 **29, 31, 33, and 34 of this chapter by providing the customer**
- 33 **with the form prescribed by the department under subsection**
- 34 **(b).**
- 35 **(2) As soon as possible after the closing, and within the time**
- 36 **prescribed by the department of local government finance:**
- 37 **(A) for a transaction that is a first lien purchase money**
- 38 **mortgage transaction:**
- 39 **(i) input the electronic sales disclosure form data and**
- 40 **submit the electronic sales disclosure form in accordance**
- 41 **with IC 6-1.1-5.5-3.5(c)(2);**
- 42 **(ii) input the information and submit the form described**
- 43 **in IC 6-1.1-20.9-3(d)(2) to enable the customer to receive**
- 44 **the credit provided by IC 6-1.1-20.9-2;**
- 45 **(iii) input the information and submit the form described**
- 46 **in section 2(d)(2) of this chapter to enable the customer**

- 1 to receive the deduction provided by section (1) of this
- 2 chapter; and
- 3 (iv) input the information and submit the form described
- 4 in IC 6-1.1-12-42.5(c)(2); and
- 5 **(B) for a refinancing transaction:**
- 6 (i) input the information and submit the form described
- 7 in section 2(d)(2) of this chapter to enable the customer
- 8 to receive the deduction provided by section (1) of this
- 9 chapter; and
- 10 (ii) input the information and submit the form described
- 11 in IC 6-1.1-12-42.5(c)(2), to the extent applicable."
- 12 Page 10, line 17, delete "(f)" and insert "(g)".
- 13 Page 10, line 20, delete "At the time of the closing, a customer may
- 14 refuse to:".
- 15 Page 10, delete lines 21 through 27.
- 16 Page 10, line 28, delete "(g)" and insert "(h)".
- 17 Page 10, line 36, delete "(h)" and insert "(i)".
- 18 Page 10, line 39, delete "or".
- 19 Page 10, between lines 39 and 40, begin a new line block indented
- 20 and insert:
- 21 **"(2) with respect to a transaction that is closed after June 30,**
- 22 **2008, and before January 1, 2010, the closing agent's failure**
- 23 **to file a document under subsection (e);**
- 24 **(3) with respect to a transaction that is closed after December**
- 25 **31, 2009, the closing agent's failure to input any information**
- 26 **or submit any form described in subsection (f)(2); or".**
- 27 Page 10, line 40, delete "(2)" and insert "(4)".
- 28 Page 10, line 42, delete "(i)" and insert "(j)".
- 29 Page 11, line 4, delete "(g)." and insert "(h).".
- 30 Page 12, line 6, delete "For use in transactions involving a
- 31 conveyance (as defined in" and insert **"As used in this subsection,**
- 32 **"transaction" has the meaning set forth in section 43(a)(4)(A) of**
- 33 **this chapter. Not later than September 1, 2009, the department of**
- 34 **local government finance shall establish and maintain an electronic**
- 35 **system that automatically applies the credit provided by section 2**
- 36 **of this chapter to a person entitled to the credit provided by section**
- 37 **2 of this chapter. The system established by the department under**
- 38 **this subsection must include a form that, with respect to a**
- 39 **transaction that is closed after December 31, 2009:**
- 40 **(1) is uniformly accessible in an electronic format to the**
- 41 **closing agent (as defined in section 43(a)(2) of this chapter) in**
- 42 **the transaction that is the basis for the person's eligibility for**
- 43 **the credit provided by section 2 of this chapter; and**
- 44 **(2) allows the closing agent to:**
- 45 **(A) input the information concerning the transaction that**
- 46 **is the basis for the person's eligibility for the credit**

1 provided by section 2 of this chapter; and
 2 **(B) submit the form electronically to a data base**
 3 **maintained by the department of local government finance.**
 4 **The department shall make the data base described in subdivision**
 5 **(2)(B) accessible to the county auditor in each county in Indiana.**
 6 **If the form submitted by a closing agent under subdivision (2)(B)**
 7 **is complete, the county auditor in the county in which the real**
 8 **property is located must accept the form and apply the credit in**
 9 **accordance with section 2(f) of this chapter. The county auditor**
 10 **may not require the closing agent, the person entitled to the credit,**
 11 **or any other person to provide any other information or form of**
 12 **identification for the person entitled to the credit under section 2**
 13 **of chapter to receive the credit. If the form submitted by a closing**
 14 **agent under subdivision (2)(B) includes the telephone number or**
 15 **Social Security number of any individual, the telephone number or**
 16 **Social Security number is confidential."**

17 Page 12, delete lines 7 through 42.

18 Delete pages 13 through 22.

19 Page 23, delete lines 1 through 4, begin a new paragraph and insert:

20 "SECTION 13. IC 20-24-8-5, AS AMENDED BY P.L.2-2006,
 21 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2008]: Sec. 5. The following statutes and rules
 23 and guidelines adopted under the following statutes apply to a charter
 24 school:

- 25 (1) IC 5-11-1-9 (required audits by the state board of accounts).
- 26 (2) IC 20-39-1-1 (unified accounting system).
- 27 (3) IC 20-35 (special education).
- 28 (4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
- 29 (5) IC 20-26-5-6 (subject to laws requiring regulation by state
- 30 agencies).
- 31 (6) IC 20-28-7-14 (void teacher contract when two (2) contracts
- 32 are signed).
- 33 (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- 34 (8) IC 20-28-10-14 (teacher freedom of association).
- 35 (9) IC 20-28-10-17 (school counselor immunity).
- 36 (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7,
- 37 IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- 38 (11) IC 20-33-2 (compulsory school attendance).
- 39 (12) IC 20-33-3 (limitations on employment of children).
- 40 (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student
- 41 due process and judicial review).
- 42 (14) IC 20-33-8-16 (firearms and deadly weapons).
- 43 (15) IC 20-34-3 (health and safety measures).
- 44 (16) IC 20-33-9 (reporting of student violations of law).
- 45 (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative
- 46 observances).

(18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).

(19) IC 20-33-7 (parental access to education records).

(20) IC 20-31 (accountability for school performance and improvement).

(21) Beginning with the school year that begins in the calendar year beginning January 1, 2010, IC 20-30-5-19 (instruction concerning consumer transactions and personal financial responsibility).

SECTION 14. IC 20-30-5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) Beginning with the school year that begins in the calendar year beginning January 1, 2010, each school corporation (including each charter school) and each nonpublic school that voluntarily has become accredited under IC 20-19-2-8 shall include in its curriculum for all students in grades 9 through 12 instruction designed to:**

(1) increase students' awareness of certain consumer transactions, including mortgage transactions; and

(2) foster personal financial responsibility.

(b) A school corporation (including a charter school) and a nonpublic school that voluntarily has become accredited under IC 20-19-2-8 may meet the requirements of subsection (a) by:

(1) integrating the instruction described in subsection (a) in its required mathematics curriculum; or

(2) conducting a separate class or seminar that includes the instruction described in subsection (a).

(c) A person may not receive a high school diploma from a school subject to this section unless the person has received the instruction required by this section.

(d) The department, in collaboration with the department of financial institutions established by IC 28-11-1-1, shall develop guidelines and the state board shall adopt rules under IC 4-22-2 to assist teachers assigned to provide the instruction required by this section."

Page 26, line 9, delete "However, if the commissioner seeks evidence of".

Page 26, delete lines 10 through 19.

Page 26, line 22, delete "may" and insert "**shall**".

Page 40, line 18, delete "'fully indexed rate' means:" and insert **"'creditworthiness', with respect to a prospective borrower, means those factors likely to affect the prospective borrower's ability to repay a loan at the loan's fully indexed rate, including the following:**

(1) The prospective borrower's present and future:

- 1 (A) income, not including overtime payments, seasonal
- 2 compensation, or other irregular income;
- 3 (B) expenses, including property taxes and insurance
- 4 payments owed in connection with the property that is the
- 5 subject of the loan;
- 6 (C) assets; and
- 7 (D) liabilities.

- 8 (2) The prospective borrower's credit history.
- 9 (3) Any other factor likely to affect the prospective borrower's
- 10 ability to repay the loan at the loan's fully indexed rate.

11 (b) As used in this section, "fully indexed rate means:".

12 Page 40, between lines 29 and 30, begin a new paragraph and insert:

13 "(c) For purposes of this section, a person conducts a

14 "reasonable inquiry" into a prospective borrower's

15 creditworthiness if the person:

- 16 (1) obtains a consumer report (as defined in IC 24-5-24-2) or
- 17 other information maintained by a consumer reporting
- 18 agency (as defined in IC 24-5-24-3) with respect to the
- 19 prospective borrower; and

- 20 (2) obtains information about the prospective borrower
- 21 through:

- 22 (A) a current or past employer of the prospective
- 23 borrower;

- 24 (B) public records; or

- 25 (C) any other legal or commercially reasonable means.".

26 Page 40, line 30, delete "(b)" and insert "(d)".

27 Page 41, line 12, delete "borrowers." and insert "**borrowers, unless**

28 **the personal information is:**

- 29 (A) included as part of:

- 30 (i) an application form; or

- 31 (ii) a document that is used in connection with an
- 32 application process or an enrollment process;

- 33 (B) used to obtain a consumer report (as defined in
- 34 IC 24-5-24-2) for an applicant for credit; or

- 35 (C) used to establish, amend, or terminate an account, a
- 36 contract, or a policy, or to confirm the accuracy of the
- 37 personal information.

38 **However, personal information allowed to be disclosed under**

39 **this subdivision may not be printed in whole or in part on a**

40 **postcard or other mailer that does not require an envelope, or**

41 **in a manner that makes the personal information visible on an**

42 **envelope or a mailer without the envelope or mailer being**

43 **opened.".**

44 Page 41, line 19, delete "borrower, without reasonable grounds to

45 believe" and insert "**borrower without first conducting a reasonable**

46 **inquiry concerning the prospective borrower's creditworthiness.".**

47 Page 41, delete lines 20 through 28.

- 1 Page 41, line 29, delete "(c)" and insert "(e)".
- 2 Page 41, line 29, after "subsection" delete "(b)" and insert "(d)".
- 3 Page 44, delete lines 5 through 6.
- 4 Page 48, line 30, delete "Except that not more than twenty-five
- 5 percent (25%) of the".
- 6 Page 48, delete line 31.
- 7 Page 48, line 32, delete "transaction may be precomputed, this" and
- 8 insert "This".
- 9 Page 48, run in lines 30 through 32.
- 10 Page 50, delete lines 10 through 42.
- 11 Page 51, delete lines 1 through 16.
- 12 Page 52, line 11, delete "transaction. The creditor or mortgage
- 13 servicer shall" and insert **"transaction and with respect to which any**
- 14 **installment or minimum payment due is delinquent for at least ten**
- 15 **(10) days. The creditor, servicer, or the creditor's agent shall**
- 16 **acknowledge"**.
- 17 Page 52, line 12, delete "respond to".
- 18 Page 52, line 13, delete "calendar" and insert **"business"**.
- 19 Page 52, line 14, after "offer." insert **"The creditor, servicer, or**
- 20 **creditor's agent is required to acknowledge a written offer made**
- 21 **in connection with a proposed short sale from a third party acting**
- 22 **on behalf of the debtor only if the debtor has provided written**
- 23 **authorization for the creditor, servicer, or creditor's agent to do so.**
- 24 **Not later than twenty (20) business days after receipt of an offer**
- 25 **under this subsection, the creditor, servicer, or creditor's agent**
- 26 **shall respond to the offer with an acceptance or a rejection of the**
- 27 **offer."**.
- 28 Page 53, line 42, delete "Except that not more than twenty-five
- 29 percent (25%) of the".
- 30 Page 54, delete line 1.
- 31 Page 54, line 2, delete "transaction may be precomputed, this" and
- 32 insert "This".
- 33 Page 53, run in line 42 through page 54, line 2.
- 34 Page 56, delete lines 27 through 42.
- 35 Page 57, delete lines 1 through 34.
- 36 Page 58, line 7, reset in roman "or".
- 37 Page 58, line 8, delete ";" and insert ".".
- 38 Page 58, delete lines 9 through 13.
- 39 Page 59, line 8, delete "transaction. The creditor or mortgage
- 40 servicer shall" and insert **"transaction and with respect to which any**
- 41 **installment or minimum payment due is delinquent for at least ten**
- 42 **(10) days. The creditor, servicer, or the creditor's agent shall**
- 43 **acknowledge"**.
- 44 Page 59, line 9, delete "respond to".
- 45 Page 59, line 10, delete "calendar" and insert **"business"**.
- 46 Page 59, line 11, after "offer." insert **"The creditor, servicer, or**

1 creditor's agent is required to acknowledge a written offer made
 2 in connection with a proposed short sale from a third party acting
 3 on behalf of the debtor only if the debtor has provided written
 4 authorization for the creditor, servicer, or creditor's agent to do so.
 5 Not later than twenty (20) business days after receipt of an offer
 6 under this subsection, the creditor, servicer, or creditor's agent
 7 shall respond to the offer with an acceptance or a rejection of the
 8 offer.".

9 Page 59, between lines 29 and 30, begin a new paragraph and insert:

10 "SECTION 39. IC 24-4.5-3-402, AS AMENDED BY P.L.217-2007,
 11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2008]: Sec. 402. (1) Except as provided in IC 24-9-4-3 with
 13 respect to a high cost home loan (as defined in IC 24-9-2-8), with
 14 respect to a consumer loan, other than one pursuant to a revolving loan
 15 account or one on which only loan finance charges are payable prior to
 16 the time that the final scheduled payment is due, if any scheduled
 17 payment is more than twice as large as the average of earlier scheduled
 18 payments, the debtor has the right to refinance the amount of that
 19 payment at the time it is due without penalty. The terms of the
 20 refinancing shall be no less favorable to the debtor than the terms of the
 21 original loan. This section does not apply to the extent that the payment
 22 schedule is adjusted to the seasonal or irregular income of the debtor.

23 (2) For the purposes of this section, "terms of the refinancing"
 24 means:

25 (a) in the case of a fixed-rate consumer loan, the individual
 26 payment amounts, the charges as a result of default by the debtor,
 27 and the rate of the loan finance charge; and

28 (b) in the case of a variable rate consumer loan, the method used
 29 to determine the individual payment amounts, the charges as a
 30 result of default by the debtor, the method used to determine the
 31 rate of the loan finance charge, the circumstances under which the
 32 rate of the loan finance charge may increase, and any limitations
 33 on the increase in the rate of the loan finance charge.

34 (3) If a consumer loan is made under the authority of the Alternative
 35 Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note
 36 evidencing the mortgage must contain a reference to the applicable
 37 federal law.

38 **(4) This section does not apply to a first lien mortgage**
 39 **transaction."**

40 Page 60, line 11, delete "Except that not more than twenty-five
 41 percent (25%) of the".

42 Page 60, delete line 12.

43 Page 60, line 13, delete "transaction may be precomputed, this" and
 44 insert "This".

45 Page 60, run in lines 11 through 13.

46 Page 61, line 24, before "Mortgage" insert "**First Lien**".

Page 61, delete lines 25 through 42, begin a new paragraph and insert:

"Sec. 102. Except as provided in section 103 of this chapter, the following do not apply to a first lien mortgage transaction under this chapter:

- (a) IC 24-4.5-1.
- (b) IC 24-4.5-2.
- (c) IC 24-4.5-3.
- (d) IC 24-4.5-4.
- (e) IC 24-4.5-5.
- (f) IC 24-4.5-6.
- (g) IC 24-4.5-7.

Sec. 103. (1) The following apply to first lien mortgage transactions under this chapter:

- (a) IC 24-4.5-1-101 through IC 24-4.5-1-108 and IC 24-4.5-1-201 through IC 24-4.5-1-302.
- (b) IC 24-4.5-2-104, IC 24-4.5-2-105, IC 24-4.5-2-107, IC 24-4.5-2-111, IC 24-4.5-2-208, IC 24-4.5-2-209, IC 24-4.5-2-301, IC 24-4.5-2-407, IC 24-4.5-2-413 through IC 24-4.5-2-415, IC 24-4.5-2-501, and IC 24-4.5-2-502.
- (c) IC 24-4.5-3-101, IC 24-4.5-3-103, IC 24-4.5-3-104, IC 24-4.5-3-106 through IC 24-4.5-3-109, IC 24-4.5-3-207, IC 24-4.5-3-208, IC 24-4.5-3-301, IC 24-4.5-3-403 through IC 24-4.5-3-405, IC 24-4.5-3-407, IC 24-4.5-3-408, IC 24-4.5-3-503 through IC 24-4.5-3-505, IC 24-4.5-3-506, IC 24-4.5-3-507, IC 24-4.5-3-512, IC 24-4.5-3-606, IC 24-4.5-3-701.
- (d) IC 24-4.5-4-101 through IC 24-4.5-4-305.
- (e) IC 24-4.5-5-101 through IC 24-4.5-5-302.
- (f) IC 24-4.5-6-101, IC 24-4.5-6-103 through IC 24-4.5-6-202, and IC 24-4.5-6-204.

(2) A reference to a consumer loan in any provision set forth in paragraph (1) shall be considered a reference to a first lien mortgage transaction for purposes of this chapter.

Sec. 104. As used in this chapter, "tablefunding" means a transaction in which:

- (a) a person closes a loan in the person's own name as a mortgagee with funds provided by others; and
- (b) the loan is assigned simultaneously to the mortgage lender providing the funding not later than one (1) business day after the funding of the loan.

Sec. 105. As used in this chapter, "creditor" means a person:

- (a) who regularly engages in the extension of first lien mortgage transactions that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

The term does not include a person who is initially payable as mortgagee in a table funding transaction.

Sec. 106. Unless a person:

(a) is:

(i) a supervised financial organization (as defined in IC 24-4.5-1-301(20));

(ii) a collection agency licensed under IC 25-11-1; or

(b) has first obtained a license from the department under this chapter;

the person shall not regularly engage in Indiana as a creditor in first lien mortgage transactions. If a person violates this section, IC 24-4.5-4.5-202(2) applies to any first lien mortgage transaction resulting from the violation.

Sec. 107. To become licensed under this chapter, a person must comply with the licensing requirements set forth in IC 24-4.5-3-503.

Sec. 108. (1) An applicant for a license under this chapter is subject to a license application fee established by the department under IC 28-11-3-5.

(2) A person licensed under this chapter is subject to:

(1) license renewal fees established by the department under IC 28-11-3-5; and

(2) examination fees established by the department under IC 28-11-3-5 to fund the department's regulation of the person's first lien mortgage business."

Delete pages 62 through 64.

Page 65, delete lines 1 through 40.

Page 72, line 21, delete "of:" and insert "**of IC 24-9 (concerning home loans)**".

Page 72, delete lines 22 through 23.

Page 72, run in lines 21 through 24.

Page 77, line 9, delete "reasonable grounds for determining that" and insert "**first conducting**".

Page 77, delete line 10.

Page 77, line 11, delete "on".

Page 77, run in lines 9 through 11.

Page 77, line 19, delete "for a determination made under this section,".

Page 77, line 19, after "borrower" delete "for".

Page 77, delete line 20.

Page 77, line 21, delete "this section later defaults on the" and insert "**later defaults on a**".

Page 77, delete lines 23 through 42.

Page 78, delete lines 1 through 4.

Page 78, line 15, delete "A creditor, a servicer, or the creditor's agent shall respond" and insert **"This subsection applies to a home loan with respect to which any installment or minimum payment due is delinquent for at least ten (10) days. The creditor, servicer, or the creditor's agent shall acknowledge"**.

Page 78, line 16, delete "to".

Page 78, line 17, delete "calendar" and insert **"business"**.

Page 78, line 17, after "offer." insert **"The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than twenty (20) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer."**.

Page 78, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 46. IC 24-9-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A creditor may not make a high cost home loan without regard to repayment ability.

(b) If a creditor presents evidence that the creditor:

(1) followed commercially reasonable practices in determining the borrower's debt to income ratio; **and**

(2) **conducted a reasonable inquiry into a prospective borrower's creditworthiness under IC 24-9-3-1.1;**

there is a rebuttable presumption that the creditor made the high cost home loan with due regard to repayment ability. ~~For purposes of this section, there is a rebuttable presumption that the borrower's statement of income provided to the creditor is true and complete.~~

(c) **For purposes of subsection (b)(1),** commercially reasonable practices include the use of:

(1) the debt to income ratio:

(A) listed in 38 CFR 36.4337(c)(1); and

(B) defined in 38 CFR 36.4337(d); and

(2) the residual income guidelines established under:

(A) 38 CFR 36.4337(e); and

(B) United States Department of Veterans Affairs form 26-6393."

Page 79, delete lines 1 through 28.

Page 83, line 5, delete "However, if".

Page 83, delete lines 6 through 16.

Page 83, delete lines 20 through 42.

Delete page 84.

Page 85, delete lines 1 through 35.

Page 85, line 38, after "to" insert **"file, submit, or"**.

- 1 Page 85, delete line 42.
- 2 Page 86, delete lines 1 through 5.
- 3 Page 86, line 9, delete "determination that a home loan is suitable
- 4 for a" and insert "**reasonable inquiry into a prospective borrower's**
- 5 **creditworthiness.)"**.
- 6 Page 86, delete line 10.
- 7 Page 87, delete lines 38 through 42.
- 8 Page 88, delete lines 1 through 9.
- 9 Page 90, delete lines 3 through 9.
- 10 Renumber all SECTIONS consecutively.
(Reference is to HB 1360 as printed January 25, 2008.)

Representative Bardon